



POLICIES AND PROCEDURES
MONTGOMERY COUNTY
DEPARTMENT OF FIRE AND RESCUE SERVICES

NO. 503
PAGE 1 OF 5
DATE April 25, 1995
DIRECTOR APPROVAL *[Signature]*


TITLE
DISCIPLINARY ACTION PROCEDURES

PURPOSE

- 1.0 To establish procedures for the timely and proper processing of disciplinary actions.

APPLICABILITY

- 2.0 All DFRS personnel.

- 2.1  This policy was developed in cooperation with the International Association of Firefighters Local 1664.

DEFINITIONS

- 3.0 Complaint - A written statement alleging; misconduct, violation of procedure or rule, dereliction of duty, or other action not consistent with the duties and responsibilities of employees of DFRS. The complaint must be in writing and must indicate the time, nature of complaint, witnesses, contact numbers, and all other pertinent information necessary for an investigation.
- 3.1 Disciplinary Action - A corrective and punitive action taken against an employee to maintain an orderly and productive work environment. The type of disciplinary action shall be consistent with the applicable section of the Personnel Regulations and current Collective Bargaining Agreement (attachment 6.5).
- 3.2 Document of Record (DOR) - A form to record commendations or the oral admonishment of an employee by a supervisor for minor infractions of Rules, Regulations, Policy or Procedures which do not warrant a more severe disciplinary action. Supervisors should counsel an employee for first time minor infractions. An Oral Admonishment/DOR should be used by the supervisor if the employee repeats the infraction. A copy of the DOR will be maintained in the employee's Supervisory File for a period of twelve (12) months as outlined in Administrative Procedure 4.8 (Attachment 6.0).



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- 3.3 Notice of Disciplinary Action - Written notice of disciplinary action to be issued an employee (Attachment 6.2).
- 3.4 Oral Admonishment - A spoken warning or indication of disapproval concerning a specific act, infraction or violation of policy or procedure that is usually given by the immediate supervisor. An Oral Admonishment that has risen to the level of an initial discipline shall be recorded via a Document of Record.
- 3.5 Statement of Charges - A written document issued to an employee prior to notification of the disciplinary action (excluding oral admonishment). This document (Attachment 6.1) will include:
- a. a list of charges indicating policy and/or procedure(s) violated; and
 - b. the findings of any investigation conducted.
- 3.6 Workday - Monday thru Friday, holidays excluded.

POLICY

- 4.0 The Department of Fire and Rescue Services will provide timely and proper processing of disciplinary actions.
- 4.1 Employees will be treated with equity and fairness.
- 4.2 Any supervisor may relieve an employee from duty if the employee causes a disruption of the work force. The supervisor must consult with and gain approval from the District Captain. The District Captain must notify the DFRS Duty Chief and the Director when an employee is relieved from duty.
- 4.3 In cases of within-grade reduction, demotion, suspension and dismissal, an employee must receive written notice of the disciplinary action at least 5 working days prior to the effective date, except in cases of theft of County property or serious violations of policy or procedure that create a health or safety risk.



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- 4.4 Except in cases of theft or serious violations of policy or procedure that create a health or safety risk, disciplinary actions must be progressive in severity. The severity of the action should be determined after consideration of the nature and gravity of the offense, its relationship to the employee's assigned duties and responsibilities, the employee's work record and other relevant factors.

PROCEDURE

- 5.0 Any employee of DFRS can direct a complaint against another employee of DFRS to the employee's supervisor. The supervisor will investigate and take appropriate action.
- 5.1 Complaints from outside the Fire and Rescue Service or from anonymous sources will be referred to the Office of the Director.
- 5.2 Any Corporation Fire Chief or their designee shall direct any complaint to the employee's Shift Captain.
- 5.3 If a supervisor is unsure whether an employee has been counseled or disciplined for similar actions in the past, that supervisor must check with the shift captain before any disciplinary action is taken.
- 5.4 If the actions of the employee warrant a level of discipline above an oral admonishment, the supervisor will request that discipline by forwarding a complaint to the Deputy Chief, Program Support Services Bureau via the Chain of Command.
- 5.5 The Department will investigate the circumstances surrounding the complaint and determine the policy(s), or regulation(s) which have been violated.
- 5.6 The Director will issue the statement of charges.
- 5.7 The employee responds in person or in writing to the charges within designated time limits:



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5.8 The Director - reviews employee's response to the charges, and determines appropriate action.

- a. Written Reprimand - Issued by the Director.
- b. All other Actions - Director signs notification document and sends 2 copies of all documentation to Office of Human Resources.
Documentation must include:

Statement of Charges
Employee Response
Notification Document
Employee Personnel Action Form (PAF)
All supporting documentation

5.9 Office of Human Resources - Reviews all documents with County Attorney's Office for compliance with Personnel Regulations. Returns documents to Director for action.

ATTACHMENT

- 6.0 Document of Record.
- 6.1 Statement of Charges Memorandum
- 6.2 Notice of Discipline Action Memorandum
- 6.3 Written Reprimand Memorandum
- 6.4 July 24, 1987 Memo Re: Disciplinary Actions for MCGEO Employees
- 6.5 Current article regarding Discipline from Collective Bargaining Agreement



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CANCELLATION

7.0 This policy cancels #503, Disciplinary Actions, Dated
January 16, 1988.

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DEPARTMENT OF FIRE AND RESCUE SERVICES
MONTGOMERY COUNTY, MD

DOCUMENT OF RECORD

Employee's Name: _____

Date: _____

Supervisor's Name: _____

Station/Shift: _____

Commendation ☐

Counseling ☐

Other ☐

Date: _____

Time: _____

Description/Findings: _____

Employee's Comments: _____

I Do ☐ Do Not ☐ want the Union to receive a copy of this form

Attachments: (Yes ☐ No ☐) _____

Disposition: _____ Discussed With Employee

_____ Employee Counseled By Supervisor

_____ No Action Required

Employee's signature

Date

Supervisor's signature

Date

Attachment 6.1

M E M O R A N D U M

Date:

TO: Employee
FROM: Department Head
SUBJECT: Statement of Charges

You are hereby notified that the following reasons may serve as the basis for (type of disciplinary action). This constitutes a Statement of Charges as required by Section 27.5 (b) of the Personnel Regulations.

You may respond to the charges as stated below either in person and/or writing, to this office by the close of business (minimum of ten calendar days from receipt of notice), prior to final action being taken on this matter.

1. State specific charges and supporting reasons including pertinent times, dates, and places when appropriate.
- 2.
- 3.

* Include in a separate paragraph a recitation of any related disciplinary action occurring within two years of current charges.

I have received and understand the nature of these charges.

Employee Signature

Date

Attachment 6.2

M E M O R A N D U M

Date: (Do not fill in until final review by
Personnel Office)

TO: Employee

FROM: Department Head

SUBJECT: Notice of Disciplinary Action

You are hereby notified that the following reasons will serve as the basis for (type of disciplinary action) to be effective (minimum of ten workdays from date of notice, except where theft, security or safety are involved).

* Include a statement of referencing the employee's response to the statement of charges and its impact on the disciplinary action.

This action is being taken for the following reasons:

1. State specific charges and supporting reasons including pertinent times, dates, and places when appropriate. (These statements must match those contained in the statement of charges).
- 2.
- 3.

* Include in a separate paragraph a recitation of any related disciplinary action occurring within two years of current charges.

Non-bargaining unit employees may appeal this action in accordance with Section 29 of the Personnel Regulations by noting an appeal to the Merit System Protection Board within 20 calendar days of the date on which you receive this notice. **

Bargaining unit employees may file a grievance in accordance with Article 38 of the Labor Agreement within 20 calendar days of the employee's in hand receipt of the final notice of disciplinary action.

I have received and understand the nature of this Disciplinary Action.

Employee's Signature

Date

Attachment 6.3

MEMORANDUM

Date:

TO: Employee
FROM: Department Head
SUBJECT: Written Reprimand

This constitutes a written reprimand which is being given for the following reasons:

1. State specific charges and supporting reasons including pertinent times, dates, and places when appropriate. (These statements must match those contained in the statement of charges).
2. State specific Personnel Regulations or Department Procedure as appropriate in the infraction.
- 3.

* Include in a separate paragraph a specific statement informing the employee of what needs to be done to correct the improper conduct and/or poor performance, and the time frame for the change (e.g., immediately, 30 days, etc.)

You are advised that such conduct will not be permitted in the future, and should it continue, you may expect further disciplinary action, up to and including dismissal.

Non-bargaining unit employees may appeal this action in accordance with Section 29 of the Personnel Regulations by noting an appeal to the Merit System Protection Board within 20 calendar days of the date on which you receive this notice.

Bargaining unit employees may file a grievance in accordance with Article 38 of the Labor Agreement within 20 calendar days of the employee's in hand receipt of the final notice of disciplinary action.

I have received and understand the nature of this Action.

Employee's Signature

Date




Montgomery County Government

MEMORANDUM

July 24, 1987

TO: Department/Agency Heads

FROM: William P. Garrett, Personnel Director 

SUBJECT: Disciplinary Actions and Changes Resulting from the Implementation of the Negotiated Agreement

The purpose of this memorandum is to restate the procedures to be used by departments/agencies in processing disciplinary actions, and to bring to your attention a number of changes resulting from the implementation of the collective bargaining agreement between MCGEO, Local 400 and the County. Any reference in this memorandum or its attachments to bargaining unit employees refers only to those employees represented by MCGEO, Local 400. Please ensure that any employee in your department/agency who has responsibility for supervising employees or responsibility for personnel administration receives a copy of this memorandum.

1. Statement of Charges

All disciplinary actions, except for oral admonishments, require the issuance of a statement of charges. Only the Chief Administrative Officer or a department/agency head may issue a statement of charges. The statement of charges must advise the employee that he/she may respond to the charges in person and/or in writing. An employee must be given at least five (5) workdays to respond. The employee may be told to direct his/her response to a lower level manager or supervisor.

The statement of charges should state the specific discipline proposed, for example, a written reprimand, two day suspension, or 5% within-grade reduction for two pay periods. Each charge must be followed by a description of the incidents which lead to the charge, and include the dates, places, persons involved and other related facts. By reading this description, the employee should have a clear understanding of the reasons for the charge. Each charge and the facts on which it is based should be described separately so that it is clear to the employee which facts support each charge. Attachments A and B are sample statements of charges for a non-bargaining unit and a bargaining unit employee, respectively.

Personnel Office

Executive Office Building, 101 Monroe Street, 7th Floor, Rockville, Maryland 20850

2. Notice of Disciplinary Action

The notice of disciplinary action is issued by the department/agency head and must include only those charges to which the employee has been given an opportunity to respond. The notice must state whether or not the employee responded and what effect the response had on the proposed action. Although the department/agency head may modify, retract, or proceed with the proposed disciplinary action, additional charges or more severe discipline may not be included in the notice unless an amended statement of charges is given to the employee first. In all cases, except theft of County property or a serious violation of policy or procedure resulting in a health or safety risk, employees must receive the notice of disciplinary action at least five workdays prior to the date the action becomes effective. Attachments C and D are sample notices for a non-bargaining unit and a bargaining unit employee, respectively.

3. Terminations

Although termination is not a disciplinary action, if the employee to be terminated has merit system status (not a probationary or temporary employee), the same procedures must be followed as for a dismissal. The employee must be given a statement of charges and an opportunity to respond.

4. Review of Disciplinary Actions

Oral admonishments and written reprimands may be given for cause at the discretion of the department/agency. In all cases, the employee should be told why his/her conduct is inappropriate, what changes are needed, and what actions will occur if changes are not made. Attachment E is a sample written reprimand. On other actions (within-grade reduction, suspension, suspension pending investigation of charges or trial, demotion, dismissal, and termination of employees with merit system status), the procedure below must be followed.

Procedure

- Department/Agency:
- ~~Prepares statement of charges and gives employee an opportunity to respond. Provides copy to Union if employee so indicates.~~
 - Prepares notice of disciplinary action and Personnel Action Form for proposed disciplinary action or termination, leaving the effective dates blank.
 - Sends notice of disciplinary action, statement of charges, employee's response, supporting documentation and Personnel Action Form to the Personnel Office.
- Personnel Office:
- Reviews, in conjunction with County Attorney's Office, notification document for procedural compliance. Normal processing time is five workdays. Action effective date will be established upon completion of administrative review.
 - Returns employee and department copy.

- Department/Agency: a. Provides notice of disciplinary action and processed Personnel Action Form to employee.
 b. Provides copy of notice to Union if employee so indicates.

In addition to the actions named above, the Personnel Regulations permit the use of annual leave (Sec. 12-4) and compensatory leave (Sec. 9-10f) deductions for disciplinary reasons. Although these actions are not specifically referenced under Section 27, the same procedural requirements apply, i.e., statement of charges, notice of disciplinary action and department/agency head and Personnel Office approval.

The Personnel Regulations also provide for the delay of service increments (Sec. 10-9), the reassignment of increment dates (Sec. 10-7) and the extension of probationary periods [Sec. 6-4(c)] based on substandard performance. These actions require a memorandum from the department head to the employee explaining the basis for the action, and an accompanying Personnel Action Form. These documents are to be submitted to the Personnel Office for review prior to being issued to the employee.

5. Procedures for Immediately Relieving Employee From Duty

When delegated the authority by a department/agency head, a supervisor may relieve an employee from duty if the employee's conduct is causing a disruption in the work place.

The employee may be relieved from duty with or without pay. An employee relieved from duty with pay is granted administrative leave in accordance with Section 18-1(b) of the Personnel Regulations. Prior to granting administrative leave the department should consider temporary reassignment to other work for which the employee is qualified. An employee relieved from duty without pay may be placed on suspension pending investigation of charges, or may receive other discipline as appropriate. A statement of charges is to be prepared and given the employee as soon after the incident as possible. A supervisor's recommendation to this effect must occur within one workday of the incident.

6. Disciplinary Examinations

Article 29.8 of the negotiated agreements states that, if an employee asks for Union representation at a disciplinary examination, the employer will delay the examination for up to 60 minutes to allow the employee to arrange for representation. A disciplinary examination occurs when a supervisor or other management official interviews an employee in order to gain information which may form the basis of discipline against the employee interviewed. The right to representation applies only where the employee reasonably believes that the examination may result in disciplinary action against him/her, and where the employee requests representation. A counselling session or meeting to discuss a performance rating would not be a situation where the employee would be entitled to Union representation under Article 29.8.

7. Grievance and Appeal Rights

An employee in either of the bargaining units represented by MCGEO Local 400 may no longer file a grievance under the County grievance procedure, Administrative Procedure 4-4, if the subject matter of the grievance is covered by the negotiated agreement and the action took place on or after July 1, 1987, the effective date of the agreement. If an employee files a grievance under the negotiated agreement over a disciplinary action taken against him/her, the employee thereby waives his/her right to file an appeal with the Merit System Protection Board.

When issuing notices of suspension, demotion, dismissal, or termination to bargaining unit employees, the following language should be included:

You may either appeal this action in accordance with Section 29 of the Personnel Regulations by noting an appeal to the Merit System Protection Board within ten (10) working days of the date on which you receive this notice, or you may file a grievance under the negotiated agreement between MCGEO, Local 400 and Montgomery County. The written grievance must be filed by the Union within 20 calendar days of the date on which you receive this notice. If you elect to file a grievance, you waive your right to file an appeal with the Merit System Protection Board, and if you file an appeal with the Merit System Protection Board, you waive your right to file a grievance under the negotiated agreement.

Notices of written reprimands or within-grade reductions must advise bargaining unit employees of their right to file a grievance under the negotiated agreement rather than under Administrative Procedure 4-4. The following language should be included:

You may appeal this action by filing a grievance under the negotiated agreement between MCGEO, Local 400 and Montgomery County. The written grievance must be filed by the Union within 20 calendar days of the date on which you receive this notice (or written reprimand).

8. Notice to Bargaining Unit Employees

Article 32 of the negotiated agreement states that the County will include in certain types of notices to employees a notification that, if the employee concurs, a copy of the notice will be furnished to the Union. It is to be included in statements of charges and notices of disciplinary action, termination, RIF, demotion, promotion, and reduction-in-salary. A reduction-in-salary is any action, however characterized, which results in a loss of wages for the employee. It is recommended that the language be typed on a separate sheet of paper and included as the last page of the notice, as in the second page of Attachments B and D.

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ARTICLE 30 - DISCIPLINE

Section 30.1 Policy

The Employer shall not suspend, discharge or otherwise discipline any employee of the bargaining unit except for cause.

Section 30.2 General Procedures

- A. Whenever the Employer proposes to discipline an employee, the Employer shall issue a Statement of Charges to the employee within a reasonable time after the Employer knows or reasonably should have known of the event giving rise to the proposed discipline.
- B. Upon in-hand receipt of the statement of charges, an employee shall have ten (10) calendar days to submit a written response.
- C. If the Employer decides to implement the disciplinary action, the Employer shall issue a Notice of Discipline within a reasonable time, usually thirty (30) days, after the employee has submitted his/her response to the Statement of Charges.
- D. A grievance may be then filed in accordance with Article 38 of this Agreement within 20 calendar days of the employee's in hand receipt of the final notice of disciplinary action.

Section 30.3 Disciplinary Examinations

- A. The Union shall be given the opportunity to be represented at any examination of an employee in the bargaining unit by a representative of the Employer in connection with an investigation if:
 - 1. The employee reasonably believes that the examination may result in disciplinary action against the employee; and
 - 2. The employee requests representation.
- B. If an employee requests to be represented at such an examination, the Employer will delay the examination for a reasonable time, not to exceed sixty (60) minutes, to permit the employee the opportunity to arrange representation.
- C. The Employer is free to terminate any examination of an employee in connection with an investigation at any time for any reason.

- D. The Union shall have no right to represent an employee who is examined as a witness or third party in any investigation or to represent an employee who is being counseled by a representative of the Employer concerning conduct, performance, or any other similar work-related matter.
- E. The employee must answer all work-related questions truthfully, promptly and completely.